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SENATE BILL 12 By  
Trail

HOUSE BILL 1253  
By McMillan

AN ACT to amend Tennessee Code Annotated, Title 16, to enact the "Drug Court Treatment Act of 2003" relative to establishing and funding drug courts in the state of Tennessee and to provide for their powers and duties.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 16, is amended by adding the following as a new Chapter 22:

**Section 16-22-101.** This chapter shall be known and may be cited as the "Drug Court Treatment Act of 2003".

**Section 16-22-102.**

(a) The General Assembly recognizes that a critical need exists in this state for criminal justice system programs to reduce the incidence of drug use, drug addiction, and crimes committed as a result of drug use and drug addiction. It is the intent of the General Assembly by this chapter to create a program to facilitate the implementation of new and the continuation of existing drug treatment court programs.

(b) The goals of the drug treatment court programs created under this chapter include the following:

(1) Reduce the use of jail and prison beds and other correctional services by non-violent chemically dependent offenders by diverting them into rehabilitative programs;

(2) Reduce incidences of drug use and drug addiction among offenders;

(3) Reduce crimes committed as a result of drug use and addiction;

(4) Promote public safety through these reductions;

(5) Increase the personal, familial, and societal accountability of offenders; and

(6) Promote effective interaction and the use of resources among local criminal justice agencies and community agencies.

**Section 16-22-103.** For purposes of this chapter:

(a) “Authorized Drug Court” means any Drug Treatment Court created within the state that follows the general principles referenced in § 16-22-104 and that is established by the judge of a court in Tennessee. An “Authorized Drug Court” shall have the same powers as the court that created it.

(b) “Chemically dependant” means a maladaptive pattern of substance use leading to clinically significant impairment or distress as manifested by two (2) or more of the pre-determinate symptoms occurring at any time in the same twelve (12) month period.

(c) “Non-adversarial approach” means that the district attorney general and the defense attorney work together for the benefit of the drug court

participants and the program. Any disagreements are to be resolved prior to court, and not in front of the participants.

**Section 16-22-104.** All Drug Courts in Tennessee shall be established and operate according to the following general principles as established by the National Association of Drug Court Professionals, Drug Court Standards Committee:

- (a) Drug courts integrate alcohol and other drug treatment services with justice system case processing;
- (b) Drug courts use a non-adversarial approach, promote public safety while protecting participants' due process rights;
- (c) Drug courts identify eligible participants early and promptly place them in the drug court program;
- (d) Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services;
- (e) Drug courts monitor abstinence by frequent alcohol and other drug testing;
- (f) Drug courts use a coordinated strategy to govern responses to participants' compliance;
- (g) Drug courts use ongoing judicial interaction with each drug court participant as an essential component of the program;
- (h) Drug courts utilize monitoring and evaluation to measure the achievement of program goals and gauge effectiveness;
- (i) Drug courts employ continuing interdisciplinary education to promote effective drug court planning, implementation, and operations; and
- (j) Drug courts forge partnerships among the court, public agencies, and community-based organizations to generate local support and enhance drug court effectiveness.

**Section 16-22-105.** This chapter enables the department of finance and administration, office of criminal justice programs to provide program oversight for the purpose of:

- (a) Defining, developing and gathering outcome measures for drug court programs as relates to § 16-22-102;
- (b) Monitoring drug court activities as to their compliance with § 16-22-104;
- (c) Collecting, reporting, and disseminating drug court data;
- (d) Coordinating a state mentor court program;
- (e) Sponsoring and coordinating state drug court trainings; and
- (f) Awarding, administering, and evaluating grants.

**Section 16-22-106.** Through the office of criminal justice programs, courts within the state of Tennessee may apply yearly for grant funds to:

- (a) Fund a full-time or part-time program director position;
- (b) Fund drug court staff whose job duties are directly related to program operations;
- (c) Fund treatment and other direct services for drug court participants;
- (d) Fund drug testing;
- (e) Fund program administrative costs directly related to program operations; and
- (f) Implement or continue Drug Court program operations.

**Section 16-22-107.** Office of criminal justice program grant awards may not be:

- (a) Used to pay for wages not directly related to program operations;
- (b) Made to any court that does not meet the definition of an “authorized drug court” as specified in § 16-22-103(a);
- (c) Used for construction or land acquisition;

(d) Used to pay bonuses or commissions to any individuals or organizations; or

(e) Used to form a corporation.

**Section 16-22-108.**

(a) The clerks of all courts of general sessions, circuit and criminal courts and municipal courts exercising the jurisdiction of courts of general sessions, shall collect the sum of seventy-five dollars (\$75.00) from any person who:

(1) Enters a plea of guilty;

(2) Enters a plea of nolo contendere;

(3) Is adjudicated at trial; or

(4) Enters a plea pursuant to any of the diversionary sentencing statutes to any criminal offense described below, or for attempt or conspiracy to commit any such offense, or for aiding, abetting, or acting in the capacity of an accessory in the commission of any such offense.

(b) The provisions of subsection (a) apply to any offense which includes as an element:

(1) The illegal use, possession, sale, delivery, transport, or manufacture of any controlled substance; or

(2) The possession of paraphernalia for the use, distribution, ingestion, or manufacture of such substance.

(c) The first five dollars (\$5.00) of each such assessment is to be remitted to the Tennessee department of finance and administration, office of criminal justice programs for funding drug court oversight and funding such grant awards as are made by the Tennessee department of finance and administration, office of criminal justice programs. The remainder of such assessments shall be deposited by the clerk of the collecting court into a dedicated county fund. Such

fund shall not revert to the county general fund at the end of the fiscal year but shall remain for the purposes set out in this section. Any such money shall be used by the county exclusively for the creation and maintenance of state approved drug court programs. In the event no drug court program operates in a county, the remainder of the funds from such county shall be remitted annually in full to the Tennessee department of finance and administration, office of the criminal justice programs in accordance with § 16-22-109.

**Section 16-22-109.** The assessment collected and remitted to the state of Tennessee shall be placed in a “Drug Court Resources Fund” for the purposes of funding program oversight and the grant awards as provided in §§ 16-22-105 and 16-22-106. The office of criminal justice programs shall administer the money in the “Drug Court Resources Fund”. Any unspent money shall not be transferred or placed to the credit of the general revenue fund of the state at the end of each year, but shall remain deposited to the credit of the “Drug Court Resources Fund” for future allocation.

**Section 16-22-110.** Nothing contained in this chapter shall confer a right or an expectation of a right to treatment for an offender within the criminal justice system.

**Section 16-22-111.** Nothing in this chapter shall be construed to limit the ability of any jurisdiction to create or maintain a Drug Treatment Court that adheres to the guidelines set forth in Section 16-22-104.

**Section 16-22-112.** Special courts such as D.U.I. courts, Dual Diagnosis courts, and Reentry courts may be considered as Drug Treatment Courts if they follow the guidelines set forth in Section 16-22-104.

**Section 16-22-113.** All program participants in the Drug Treatment Court must be:

(a) Non-violent offenders, as defined in Section 2203, Title V of the “Violent Crime Control and Law Enforcement Act of 1994”, Public Law 103-322;

- (b) Substance abusing and/or chemically dependant; and
- (c) Willing to participate in a treatment program.

SECTION 2. This act shall take effect July 1, 2003, the public welfare requiring it.